IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1978 OF 2006

Mr. Ram Ashish Gopal Gupta and Anr. ... Petitioners

Vs.

Slum Rehabilitation Authority & Ors. ... Respondents

Mr. M.M. Vashi for Petitioner.

Mr. G.D. Utangale for R. No. 1.

Mr. M. More, A.G.P. for R. No. 2.

Mr. T.N. Subramanian, Senior Counsel with Ms. Alpana Ghone i/by Shaunak Satpute & Co. for R. No. 3.

Mr. A.Y. Bookwala, Sr. Counsel with Mr. Omkar Warange for R. No. 4.

CORAM: F.I. REBELLO &
MRS.V.K.TAHILRAMANI,JJ.
DATE : AUGUST 04, 2006

P.C.:

. Rule.

2. The learned counsel for the Petitioner has produced document to establish service on Respondent No. 2 dated 1st August, 2006, setting out therein that the matter will be heard today. None present for the Respondent No. 2.

. The other respondents are served. Considering the controversy, the petition can be disposed of.

3. The grievance of the Petitioner is that while granting annexure and subsequent LOI the Respondent

authorities have not at all addressed themselves to what is on record. On Page 32, is a report dated 14.7.2005 of the Head Surveyor based on the inspection carried out on 23,24th June, 2005, and panchanama drawn which sets out that a verification was done. This shows 296 persons had given consent to Parvati Coop. Hsg. Society, 182 persons had consented to Shivparvati Co-op. Hsg. Society and 193 persons did not give any decision and 93 huts were closed. In other words, out of the 765 hutments on the site, consent of only 469 was on record under the Panchanama which was drawn up. Thereafter we find the annexure II which has been issued in April, 2006. That shows that the reliance is placed on the panchanama and consent taken on 24.6.2005. If the figures set out are considered, there are 765 slum structures out of which developer Nalin Patel has obtained consent of 559 persons. The eligibility then has been considered and it is found that out of 519, 433 had given their consent to developer Nalin Patel. Then reference is made to the letter dated 27.04.2005 by Ramdas Kadam, M.L.A. and present Opposition Leader supporting builder Nalin Patel. Reference is then made to letter dated 6.11.2005 of M.L.A. Gajanan Kirtikar supporting Nalin Patel. Both these M.L.A.s have requested that the consent be given to Nalin Patel immediately. Then on 28.6.2005, the Guardian Minister sets out that false signatures were taken on the deed and an enquiry be conducted. There is nothing on record

therefore, to show that thereafter any fresh enquiry was conducted. The annexure II order at least does not disclose the same. Paragraph 7, then shows some figures which are considered. We find there has been total non application of mind on the part of Respondent No. 2 while sanctioning the annexure II. If the panchanama is to be accepted, neither the Petitioner nor Respondent No. 3 had 70% of support of eligible persons in their favour.

4. We may once again note what we have said earlier, that a very unhappy scene is emerging in the S.R.A. schemes. The Petitions before this court are normally sponsored by one or the other developer and not by the slum dwellers. Increasingly the M.L.A.s are showing interest in the S.R.A. schemes and openly supporting builders. We do not wish to comment as to the object, in such interference. However, one thing which emerges is that, the S.R.A. schemes, seems to have become a profitable business venture for developers. It is high time therefore, that the State Government takes a note of this fact for the purpose of reconsidering the manner in which the S.R.A. schemes must be developed including whether the present incentives should be lowered as also devising norms that those who are allotted free apartments, do not sell tehm at a profit, but those apartments if to be sold, must come back to the State on a price fixed to be allotted to others who require to be er-habilitated. A copy of this order be sent to the

Chief Secretary of the State of Maharashtra for the purpose of looking into the matter in depth and to enable the Government to take suitable steps thereafter.

5. However, on the facts of this case, we set aside the order and the matter is sent back to Respondent No. 2 who will after hearing both Petitioners and Respondent No. 3 to decide as to who has 70% of the support in the S.R.A. scheme.

. At this stage, we may note the contentions of the learned counsel on behalf of Respondent No. 4 that on a perusal of the annexure, it is found that the names of both the Petitioners are not on record. The Petitioner No. 1 is chairman and Petitioner No. 2 is the Secretary. They got the annexure only under the Right of Information Act in April, 2006. If their names have been excluded though eligible, it will be open to them to take such steps in law to which they are entitled to. On behalf of the Petitioners, the learned counsel however, states that their names are included.

. Rule made absolute accordingly. No order as to costs.

(MRS.V.K.TAHILRAMANI,J.) **(F.I.REBELLO, J.)**